IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

P.I.L. NO.142 OF 2005

M/s.Raviraj Kothari — Petitioner
vs.
Pune Municipal Corporation & ors. — Respondents

Mr.Tejas Deshpande for the petitioner.

Mr.R.G.Ketkar for the respondents 1 and 2.

Mr.P.P.Kakade, A.G.P. for the respondent no.3.

Mr.R.D.Soni i/b.M/s.Ram & Co. for the respondent nos.4 to 7.

CORAM : R. M. LODHA &
A.S.BAGGA, JJ.

DATED : 14th June, 2006

P.C.

After having heard the counsel for the petitioner, the counsel for the respondents 1 and 2 and the counsel for the respondents 4 to 7, we are of the view that this writ petition entitled public interest litigation is nothing but an abuse of the process of the Court. We indicate the reasons therefor.

2. The petitioner claims to be owner and in possession of plot of land bearing survey no.67-A, Hissa No.2 admeasuring 49 ares. The said plot of land is bounded by survey no.67/3 on the north, survey no.67/1 on the south, survey no.68 on the East and a railway line on the west. The respondents 4 to 7, according to the

petitioner, were owners of survey no.67/1 which is on the south of petitioner's property. Respondents 4 to 7 cut various plots in the said property and these were sold to various persons. The grievance of the petitioner in this writ petition is with regard to the development rights certificate dated 9th March, 2005 whereby the TDR has been released in favour of the respondents 4 to 7. The petitioner alleges that TDR released by the respondents 1 and 2 in favour of the respondents 4 to 7 is far more excessive. It is pertinent to notice that the four persons viz. Namdeo Tukaram Kavade, Ashok Namdev Kavade, Smt.Shobha Ravindra Hajare and Smt.Rekha Kishor Gavane, through the petitioner has filed a suit in the court of Civil Judge, Senior Division, challenging the demarcation certificate issued by the Land Records Office under M.R.No.5196/2004. In the Suit, particularly paragraph 27 thereof, the plaintiffs have raised the grievance that the original owners of survey no.67/1 (respondents 4 to 7 herein) are trying to take undue advantage of demarcation of of plan no.5196 dated 6th October, 2004 and grab the TDR and trying to deprive the plaintiff of their legitimate right. The petitioner, therefore, has a definite interest in the subject matter of the writ petition and by no stretch of imagination, can it be said that the petitioner is espousing the public interest. Besides that even if we assume that the writ

petition raises a personal grievance of the petitioner, in our view, having already filed the Suit in the Court of the Civil Judge, Senior Division, Pune, wherein the apprehension has already been raised that the erstwhile owners of survey no.67/1 (respondents 4 to 7 herein) may get the benefit of TDR, the course open to the petitioner is to raise the grievance in the Suit itself. If the petitioner even now desires to raise this grievance concerning grant of TDR to respondents 4 to 7 by respondents 1 and 2, we grant liberty to the petitioner to apply to the trial Court for leave to amend the Suit and seek necessary reliefs in this regard.

3. With the aforesaid observations, writ petition (PIL) is dismissed in limine.

(R.M. LODHA,J.)

(A.S. BAGGA,J.)